

16 June 1981

MEMORANDUM FOR: D/ODP
DD/ODP
EXO/ODP
DD/P/ODP
DD/A/ODP
C/SPS/ODP

STAT FROM :
Policy and Plans Group, Management Staff

STAT SUBJECT : Proposed Ethical Conduct and
Responsibilities of Employees, DRAFT A
(Job #9570)

STAT 1. Attached for your review and comment is the Proposed
 This proposed regulation is to describe Agency policy
on ethical conduct, to establish procedures for financial
disclosure and avoidance of real or apparent conflicts of
interest, and to provide procedures for the administrative
enforcement of postemployment restrictions.

2. Any comments should be returned to the undersigned by
23 June.

STAT

Attachment: a/s

11 June 1981

MEMORANDUM FOR: Deputy Director for National Foreign Assessment
Deputy Director for Science and Technology
Deputy Director for Operations
Comptroller
General Counsel
Legislative Counsel
Inspector General

STAT FROM: [REDACTED]
Chief, Regulations Control Division

STAT SUBJECT: Proposed [REDACTED] Ethical Conduct and Responsibilities
of Employees, DRAFT A (Job #9570)

FOR YOUR CONCURRENCE OR COMMENTS:

1. This proposed regulation was initiated by the Office of Personnel. The regulation is added to describe Agency policy on ethical conduct, to establish procedures for financial disclosure and avoidance of real or apparent conflicts of interest, and to provide procedures for the administrative enforcement of postemployment restrictions.

2. Please forward your concurrence and/or comments to the Regulations Control Division by 2 July 1981. Concurrence sheets are attached for your convenience. Any questions may be directed to [REDACTED]

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Attachments:

- A. Concurrence Sheet
- B. Proposed [REDACTED]

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cc: AO/DCI
SSA/DDA
DIS
OP
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HQ. INSTRUCTION SHEET

REMOVE			INSERT			EXPLANATION
REG. NOS.	PAGE NOS.	DATE	REG. NOS.	PAGE NOS.	DATE	
						<div></div> is added to the regulations to describe policy on ethical conduct, to establish procedures for financial disclosure and avoidance of real or apparent conflicts of interest, and to provide procedures for the administrative enforcement of postemployment restrictions.

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DRAFT A

PERSONNEL

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5. ETHICAL CONDUCT AND RESPONSIBILITIES OF

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EMPLOYEES

SYNOPSIS. This regulation states general Agency policy on ethical conduct, establishes procedures for financial disclosure and avoidance of real or apparent conflicts of interest, and provides procedures for the administrative enforcement of post employment restrictions.

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a. AUTHORITY. This regulation is promulgated in implementation of the Code of Ethics for Government Service, House Concurrent Resolution No. 175, 11 July 1958, 5 U.S.C. 7301 note; Title II and IV of the Ethics in Government Act of 1978, as amended, 5 U.S.C. Appendix I; Title V of the Ethics in Government Act of 1978, as amended, 18 U.S.C. 207; Executive Order 11222 of 8 May 1965, as amended, 18 U.S.C. 201 note; and 5 CFR Parts 734, 735, and 737.

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b. POLICY. It is the policy of the Agency to promote and maintain the highest standards of honesty, integrity, impartiality, and ethical conduct to ~~assure~~ the proper performance of Agency business and to ^{/ensure/} inspire the confidence of the public in the Agency and its personnel. Accordingly, the Agency requires certain employees to disclose personal financial interests and a description of other employment relationships in order to avoid potential conflicts of interest and the

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appearance of such conflicts which may arise as they carry out the duties of their positions. ~~Also the Agency~~ places certain restrictions on the post¹employment conduct of certain officials. ☐

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c. GENERAL. An employee shall avoid any action, whether or not specifically proscribed by this regulation, which might result in¹ or create the appearance of:

- (1) Using public office for private gain¹ //
- (2) Giving preferential treatment to any person¹ //
- (3) Impeding Government efficiency or economy¹ //
- (4) Losing independence or impartiality¹ in making work-related judgments¹ //
- (5) Making a Government decision outside official channels¹ or¹ //
- (6) Affecting adversely the confidence of the public in the integrity of the Government. ☐

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d. GIFTS, ENTERTAINMENT, AND FAVORS. An employee shall not solicit or accept¹ directly or indirectly¹ any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who has or is seeking to obtain contractual or other business or financial relations with the Agency or who has interests that may be substantially affected by the performance or nonperformance of the employee's official duty or who appears to be offering the gift with the hope or expectation of obtaining advantage or preferment in dealing with the U.S. Government for any purpose. ☐

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e. OUTSIDE EMPLOYMENT AND OTHER ACTIVITY. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict/ or an apparent conflict/ between the private interests of the employee and ~~his~~ official Government duties and responsibilities. ☐ /his or her/

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f. MISUSE OF GOVERNMENT PROPERTY. An employee shall not ~~directly or indirectly use,~~ or allow the use, of Government /use directly or indirectly/ property of any kind, including property leased to the Government, for other than officially approved activities. ☐

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g. MISUSE OF INFORMATION. An employee shall not / use directly or indirectly,/ for the purpose of furthering a private interest, ~~directly or indirectly use,~~ or allow the use of/ official information obtained through or in connection with Government employment which has not been made available to the general public. ☐

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h. FINANCIAL INTERESTS. An employee, spouse, or dependent child shall not have a direct or indirect financial interest that conflicts substantially/ or appears to conflict substantially with the employee's Government duties and responsibilities/ and the employee shall not engage/ directly or indirectly/ in a financial transaction as a result of/ or primarily relying on/ information obtained through Government employment. ☐

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i. DESIGNATED AGENCY ETHICS OFFICIAL. The Deputy General Counsel is the Designated Agency Ethics Official and is responsible for implementing this regulation, enforcing the restrictions ~~herein contained,~~ and administering the financial ~~/contained herein,/~~ disclosure provisions. ☐

j. FINANCIAL DISCLOSURE REVIEW PANEL

(1) The Financial Disclosure Review Panel is established to assist the Designated Agency Ethics Official in the performance of responsibilities in matters relating to conflicts of interest and financial disclosure. The panel ~~will~~ ^{/p/} consist of a chairman and two representatives of each of the ^{/s /} ^{/person/} Career Services. The panel ~~will be~~ ^{/p/} ^{/is/} assisted in its work by two advisors from the Office of the Inspector General and one ^{/e/} advisor from the Office of General Counsel. ^{/e/}

(2) The panel ~~shall be~~ ^{/p/} ^{/is/} responsible for conducting a review of financial statements and reports submitted to determine whether such statements or reports reveal possible violations of applicable ~~conflict~~ ^{/conflicts/} of interest laws or regulations, reporting its findings to the Designated Agency Ethics Official, and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review. ☐

k. STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS. The following employees are required to submit to the Financial

Disclosure Review Panel a completed Form 2630, Employee Confidential Statement of Employment and Financial Interests, accompanied by a full description of the employee's principal Governmental duties:

(1) Employees paid at a level of GS-13 through 15 who are in positions that require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or non-Federal enterprises, or other activities when the decision or action has an economic impact on the interests of any non-Federal enterprise.

(2) Other employees classified at GS-13 through 15 levels who are in positions that require incumbents to report their employment and financial interests in order to avoid involvement in a possible conflicts of interest situation.

(3) Employees classified below GS-13 who are in positions that meet the criteria in paragraphs (1) and (2) above whose filing is essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts of interest situation.

l. Not used.

m. EXECUTIVE FINANCIAL DISCLOSURE REPORTS

(1) The following employees are required to submit the Financial Disclosure Review Panel a completed Standard Form 278, Executive Personnel Financial Disclosure Report:

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~~Personnel Financial Disclosure Report, SF 378.~~

(a) Employees assigned for a period in excess of ~~sixty~~ /60/ days to positions classified in the Senior Intelligence Service or above and their equivalents.

(b) Employees assigned for a period in excess of ~~sixty~~ /60/ days to positions designated by statute as subject to postemployment restrictions.

(c) Employees assigned for a period in excess of ~~sixty~~ /60/ days to positions by the Director of the Office of / designated as senior employee positions / Government Ethics in consultation with the Director of Central Intelligence (DCI).

(2) This reporting requirement is based on the position rather than the grade of the employee.

(3) Employees under cover of other Government agencies may be required to file disclosure reports with the cover agency as well as with CIA.

(4) The disclosure reports of all Agency employees are exempt from public disclosure except the reports of the DCI, the ~~DDCI~~, the Designated Agency Ethics Official, and those employees /Deputy Director of Central Intelligence (DDCI)/ required to file reports with other Government agencies providing cover. ☐

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1. TIME AND PLACE FOR SUBMISSION OF STATEMENTS AND /n/ REPORTS

(1) Employees required to submit Employee Confidential Statements of Employment and Financial Interests shall submit to **ILLEGIB** the Financial Disclosure Review Panel ☐

initial statements within 30 days of entrance-on-duty and supplemental statements annually by 15 September. ~~Statements are submitted to the Financial Disclosure Review Panel.~~

(2) Employees required to submit Executive Personnel Financial Disclosure Reports shall submit initial reports within 30 days of entrance-on-duty, supplemental reports annually after 1 April of each year but not later than 15 May, and a final report within 30 days after termination of employment.

(3) Reports are submitted to the Financial Disclosure Review Panel in specially provided envelopes marked "To Be Opened By Addressee Only" and are handled in a manner consistent with security and the privacy of each reporting individual. Individuals under cover shall classify both the envelope and its contents Confidential.

(4) The Designated Agency Ethics Official shall submit a disclosure report to the Director of the Office of Government Ethics after ~~the same has been reviewed~~ by the DCI.

(5) The Designated Agency Ethics Official shall submit the disclosure reports of the DCI and the DDCI to the Director of the Office of Government Ethics after reviewing the same.

(6) The date any financial disclosure report or supplemental report is received shall be noted on the report by the Financial Disclosure Review Panel. ☐

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DRAFT A

1. REVIEW OF STATEMENTS
/o/

(1) Each Employee Confidential Statement of Employment and Financial Interests submitted ~~shall~~ be reviewed within a reasonable period of time in conjunction with the relevant job description and other appropriate information as warranted by the Financial Disclosure Review Panel which ~~shall~~, after consultation with the employee where warranted, ~~comment~~ in writing on the statement as to whether the employee's duties involve organizations, persons, or real property with which the employee has or appears to have financial or employment interests.

(2) Where the determination is that a conflict of interest, ~~real or apparent~~, exists, the Panel shall initiate informal discussions with the employee concerned in order to provide the employee with a full opportunity to explain the conflict or appearance of conflict and arrive at an agreement whereby the conflict of interest may be removed or avoided. Such an agreement may include but is not limited to: (1) changes in assigned duties; (ii) divestiture of the financial or employment interest creating the conflict or apparent conflict; or (iii) disqualification for a particular assignment.

(3) Where an acceptable agreement cannot be reached, the Panel shall present findings and recommendations to the Designated Agency Ethics Official who shall decide which remedy is most appropriate to remove or correct the conflict or apparent conflict. Remedial action may involve disciplinary measures including separation for cause.

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(4) Written summaries of all agreements and decisions arrived at ~~shall~~ be made and kept by the Panel. ☐ STAT
 /will/ /p/

1. REVIEW OF REPORTS

/p/

(1) Each Executive Financial Disclosure Report submitted to the Financial Disclosure Review Panel ~~shall~~ be reviewed within ~~sixty~~ days after the date of receipt by the Panel.
 /will/ /60/ /p/

(2) Where the Panel determines on the basis of information in the report that the employee submitting the report is in compliance with all applicable laws and regulations, the Panel shall enter ~~its findings on the report form~~, the signature of the chairman, and the date. Where the Panel determines that additional information is required, it shall notify the reporting employee, indicating a date by which the information must be submitted.
 /p/ /r/ /r/ /p/ /p/

(3) Where the Panel determines on the basis of information in the report and additional information submitted that the reporting employee is in compliance with all applicable laws and regulations, the Panel shall enter its findings, ~~on the report form~~, the signature of the chairman, the date, and shall forward written notification of such action to the employee, including the addition of any comment written or attached to the report.
 /p/ /r/ /p/ /r/ /p/ /p/

(4) Where the Panel determines on the basis of information in the report and any additional information, if

required/ that the reporting employee is not in compliance with all applicable laws and regulations, the panel shall notify the reporting employee, afford the employee a reasonable opportunity for an oral or written response, and determine on the basis of the response whether or not the employee is in compliance.

(5) Where the panel determines on the basis of the response that the reporting employee is in compliance with all applicable laws and regulations, the panel shall enter its findings ~~on the Report form~~, the signature of the chairman, the date, and forward written notification of such action to the employee.

(6) Where the panel determines on the basis of the response that the reporting employee is not in compliance with all applicable laws and regulations, the panel shall notify the reporting employee, afford the employee an opportunity for personal consultation, if practicable, determine what remedial action should be taken to bring the employee into compliance, and notify the employee in writing of the remedial action required, indicating a date by which such action should be taken. Except in unusual situations which must be fully documented to the satisfaction of the panel, remedial action must be completed within 90 days from the date the employee was notified that such action would be required.

(7) Remedial steps may include, as appropriate:

(1) divestiture of the conflicting interest.

- (ii) Institution
/b/ /R/ /./
- (iii) ~~the establishment~~ of a qualified blind or
/c/ /E/
diversified trust
/./
- (iv) Request for an exemption
/d/ /R/ /./
- (v) ~~Refusal~~, or
/e/ /Refusal.
- (vi) Voluntary request by the employee for transfer,
/f/ /V/
reassignment, limitation of duties, or resignation.

(8) Where a reporting employee complies with a written request for remedial action, the Panel shall indicate that such action has been taken in the comment section of the Report, affix the ~~chairman's~~ signature, and date the report. The Panel shall send written notification of the signing and of the addition of the comment to the form to the reporting employee.

(9) Where a reporting employee does not comply with a written request for remedial action, the Panel shall notify the Office of Government Ethics and refer the matter for appropriate action to the ~~Director of Central Intelligence~~. Appropriate action includes, but is not limited to, changes in assigned duties or disciplinary action in accordance with

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1. POST-EMPLOYMENT RESTRICTIONS

- /q/
- (1) ~~An employee shall not, after Agency employment~~
/A/
has ended, knowingly represent anyone other than the United States, as agent or attorney, formally or informally, by oral or written communication, in connection with a matter in which

the Agency is a party or has an interest and in which the employee participated personally and substantially for the Agency.

(2) For two years after Agency employment has ended, an employee shall not knowingly represent anyone other than the United States, as agent or attorney, formally or informally, by oral or written communication, in connection with a matter in which the Agency is a party or has an interest and which was within the scope of the employee's official responsibility during the last year of the employee's Agency service.

(3) For two years after Agency employment has ended, an employee in a Senior Intelligence Service position or a position designated as a senior employee position by the Director of the Office of Government Ethics in consultation with the ~~Director of Central Intelligence~~ shall not knowingly represent or aid, counsel, advise, or assist in representing anyone other than the United States, formally or informally by personal presence, in connection with a matter in which the Agency is a party or has an interest and in which the employee participated personally and substantially for the Agency.

(4) For one year after Agency employment has ended, an employee in a Senior Intelligence Service position or a position designated as a senior employee position by the Director of the Office of Government Ethics in consultation with the ~~Director of Central Intelligence~~ shall not

~~not, for one year after Agency employment has ended,~~ knowingly represent anyone other than the United States, as agent or attorney, formally or informally, by oral or written communication, to the Agency or any of its officers or employees, in connection with a matter which is pending before the Agency or in which the Agency has a direct and substantial interest.

(5) The prohibition of ~~subsection~~ (4) shall not apply to appearances, communications, or representations by a former employee who is an elected official of a State or local government or whose principal occupation is with ~~(i)~~ an agency or instrumentality of a State or local government, ~~(ii)~~ an accredited, degree-granting institution of higher education, or ~~(iii)~~ a hospital or medical research organization and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

(6) The prohibitions of ~~subsections (1), (2), and (4)~~ and ~~(4)~~ shall not apply to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the Agency.

(7) Nothing in this regulation shall prevent a former employee from giving testimony under oath or from making statements required to be made under penalty of perjury. ☐ STAT

d. ADMINISTRATIVE ENFORCEMENT PROCEEDINGS

/r/

(1) DISCIPLINARY HEARING

(a) Whenever the Designated Agency Ethics Official

determines, after appropriate investigation and review, that there is sufficient cause to believe that a former employee has violated ~~18~~ U.S.C. 207, the Designated Agency Ethics Official shall ~~expeditiously forward~~ that information, along with any ~~comments and Agency regulations~~, to the Director, ~~OGE~~, and to the Criminal Division, Department of Justice. Thereafter, the Designated Agency Ethics Official shall coordinate any further investigation or administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Agency that it does not intend to initiate criminal prosecution.

(b) The Designated Agency Ethics Official may initiate an administrative disciplinary proceeding by providing the former employee with adequate notice of the proceeding and affording the former employee an opportunity for a hearing. The notice must include a statement of allegations (and the basis thereof) sufficiently detailed to enable the former employee to prepare an adequate defense. It ~~must also~~ include notification of a right to a hearing and an explanation of the method by which a hearing may be requested.

(2) PRESIDING OFFICIAL

(a) The presiding official at proceedings initiated hereunder shall be the Designated Agency Ethics Official or designee hereinafter referred to as ~~Examiner~~. The Examiner must be an attorney-at-law and an employee of the Agency.

(b) An Examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an Examiner in those proceedings.

(3) TIME, DATE, AND PLACE. The hearing ~~shall~~ be /will/ conducted at a reasonable time, date, and place. In setting a hearing date, the Examiner shall give due regard to the former employee's need for adequate time to prepare a defense properly and an expeditious resolution of allegations that may be damaging to his or her reputation.

(4) HEARING RIGHTS. The hearing rights of an employee are:

(i) To represent oneself or to be represented by counsel /a/

(ii) To introduce and examine witnesses and to submit physical evidence. /b/

(iii) To confront and cross-examine adverse witnesses /c/

(iv) To present oral argument and /d/

(v) To receive a transcript or recording of the proceedings on request. /e/

(5) HEARING DECISION. The Examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(6) APPEALS

(a) Within ~~ten~~ calendar days of an initial decision, /30/

either party may appeal the decision to the DCI who shall base the decision on the appeal solely on the record of the proceeding or those portions thereof cited by the parties to limit the issues. / in order /

(b) Where the DCI modifies or reverses the initial decision, the DCI shall specify such findings of fact and conclusions of law as are different from those of the hearing Examiner.

(7) ADMINISTRATIVE SANCTIONS. The DCI may take appropriate action in the case of any individual who is found in / after a final administrative decision / violation of these regulations ~~after a final administrative decision~~, or who fails to request a hearing after receiving adequate notice, ~~by prohibiting~~ the individual from making, on /. The DCI may prohibit/ behalf of any party other than the United States, any formal or informal appearance before, or oral or written communication with the intent to influence the Agency on any matter of business for a period not to exceed five years. The DCI may. /Also, the/ impose any other appropriate less severe penalty that is consonant with these proceedings.

(8) JUDICIAL REVIEW. Any person found to have participated in a violation of these regulations may seek judicial review of the administrative determination. ☐

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